

REMARKS**Status of Claims**

Claims 15-18, 20 and 22-25 are pending. Claims 15 and 20 have been amended to correct informalities in claim language and to more clearly define the present subject matter. Care has been taken to avoid introducing new matter. Claims 22-25 have been added. No new matter has been introduced.

Patentability under 35 U.S.C. §103

Claims 15-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tsujimura et al. (US 2003/0168653) and further in view of D'Evelyn et al. (US 2005/0087753). Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsujimura and in further view of D'Evelyn and Sakano et al. (US 2003/0080341). This rejection is traversed for at least the following reasons.

Applicants respectfully submits that, at a minimum, none of the cited references disclose or suggest that *"the fourth n-type semiconductor layer [is] directly formed on the third n-type semiconductor layer,"* as recited by amended claims 15 and 20. In rejecting claims 15 and 20, the Examiner asserts that the layer 152 of the multi quantum well layer 15 corresponds to the claimed fourth n-type layer.

However, the alleged fourth n-type layer 152 is a part of a light emitting layer having a multi quantum well structure, and thus should not be treated separately. Further, the alleged fourth n-type layer 152 does not directly contact with the alleged third n-type layer 14 since there is a well layer 151 between layer 152 and layer 14. As such, it is clear that Tsujimura fails to disclose the above identified feature of claims 15 and 20. It is also clear that the remaining cited

references do not cure the deficiency of Tsujimura, and it would not have been obvious to add this feature to any combination of the cited references.

Accordingly, Applicants respectfully submit that claims 15 and 20 and all claims dependent thereon are patentable over the cited references. Thus, it is requested that the Examiner withdraw the rejections of claims 15-18 and 20.

New claims

Since new claims 22-25 depend upon claims 15 or 20, and none of the cited references disclose or suggest the features of these claims, claims 22-25 are patentable over the cited references.

CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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